

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Gordon	Team: Team # 4	CCRB Case #: 200612793	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/26/2006 8:00 PM	Location of Incident: § 87(2)(b) and § 87(2)(b)	Precinct: 73	18 Mo. SOL 3/26/2008	EO SOL 3/26/2008	
Date/Time CV Reported Tue, 09/26/2006 9:13 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 09/26/2006 9:13 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Timothy Schultz	10651	934158	073 PCT
2. Officers			
3. POM Justin Caballero	30884	932392	073 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Shook	23570	935740	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Timothy Schultz	Abuse: PO Timothy Schultz stopped § 87(2)(b)	
B. Officers	Discourtesy: Officers spoke rudely to § 87(2)(b)	
C. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	
D.POM Timothy Schultz	Force: PO Timothy Schultz struck § 87(2)(b) with an asp.	
E.POM Justin Caballero	Force: PO Justin Caballero struck § 87(2)(b) with an asp.	
F. Officers	Discourtesy: Officers spoke rudely to individuals.	
G. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	

Synopsis

On September 26, 2006, at approximately 8:00 PM, § 87(2)(b) was coming from a friend's house in the vicinity of § 87(2)(b) and § 87(2)(b) in Brooklyn. He was walking by himself when a marked NYPD van then drove up next to him with three officers in it: PO Timothy Schultz, PO Daniel Shook and PO Justin Caballero. PO Schultz jumped out of the van and started running towards § 87(2)(b) telling § 87(2)(b) to stop (**Allegation A**). § 87(2)(b) did not know why they were coming after him so he began to run. PO Schultz and PO Shook chased § 87(2)(b) on foot while PO Caballero got into the van and drove east on § 87(2)(b). § 87(2)(b) ran south on § 87(2)(b) then east on § 87(2)(b) and then north on § 87(2)(b). All the while, the officers running after him were saying things to the effect of "Stop, motherfucker" and "When I catch you, I am going to beat the shit out of you" (**Allegations B & C**). Near § 87(2)(b), § 87(2)(b) was out of breath and stopped running. He put his hands up to surrender and this is when the two officers on foot caught up with him and PO Caballero drove up to him. PO Schultz then extended his asp and struck § 87(2)(b) in his left arm and then continued to hit him in his left side and left leg a total of five to six times (**Allegation D**). PO Caballero also used his asp to hit § 87(2)(b) once in the right leg (**Allegation E**). During the struggle, § 87(2)(b) fell to the ground chest first and was handcuffed. While he was being lifted up from the ground, PO Schultz struck § 87(2)(b) in the stomach with his asp (**also Allegation D**). Meanwhile, the officers were yelling obscenities at a crowd of people that had gathered at the scene, saying things like "Shut the fuck up, you want to be next?" (**Allegation F**). One of the individuals in the crowd, § 87(2)(b) was told by one of the officers, "Shut the fuck up, nigger" (**Allegation G**). The officers then put § 87(2)(b) in the van and transported him to the 73rd Precinct stationhouse.

§ 87(2)(g)

Summary of Complaint

When this complaint was filed, the victim was not identified. The victim of this complaint, § 87(2)(b) was finally identified on October 30, 2006 from the record of his arrest in the 73rd Precinct command log (see enclosure 12b). § 87(2)(b) then gave a telephone statement on November 28, 2006 (see enclosure 6a) and gave his official CCRB statement on December 4, 2006 (see enclosures 6b-6d). § 87(2)(g)

On September 26, 2006 at approximately 8:00 PM, § 87(2)(b) was alone and leaving his friend's place in the vicinity of § 87(2)(b) between § 87(2)(b) and § 87(2)(b) in Brooklyn. That evening he was dressed in blue pants, a blue and white long sleeve shirt and blue and white sneakers. He had nothing in his hands. He was walking on the right hand side of § 87(2)(b) towards § 87(2)(b) when a marked police van turned onto § 87(2)(b) from § 87(2)(b) and drove up next to him. There were three officers: one heavy set Caucasian, male officer with blond hair (later identified as PO Timothy Schultz from the BADS arrest report and subsequent photo array shown to § 87(2)(b) another male Caucasian officer (later identified as PO Daniel Shook through roll call and PO Schultz' CCRB statement) and one Hispanic male officer with a light brown complexion (later identified as PO Justin Caballero through roll call, officer's photo compared to § 87(2)(b) description of him and PO Schultz' CCRB statement). The officers exited the van and "rushed" § 87(2)(b) meaning they jogged

towards him saying, "Come here." § 87(2)(b) was not doing anything at the time but walking and felt that the officers were targeting him arbitrarily, therefore § 87(2)(b) began to run away from the officers. He ran south on § 87(2)(b) and then east on § 87(2)(b) continuing to run until he reached § 87(2)(b) covering a total of two blocks. § 87(2)(b) claimed that he was pursued by PO Schultz and PO Caballero while PO Shook pursued the chase in the patrol van. Throughout the chase, § 87(2)(b) heard the officers on foot say things to the effect of "Stop, motherfucker!" and "When I catch you, I am going to beat the shit out of you." Because he was running with his back to the officers, he could not tell which officer said what.

On § 87(2)(b) § 87(2)(b) decided to stop because he was out of breath and he put his hands up to show that he wished to surrender. PO Schultz ran up to him, removed and extended his asp and hit § 87(2)(b) in the upper part of his left arm. He then continued hitting § 87(2)(b) on the left arm while § 87(2)(b) was trying to block the asp blows with his arms. PO Schultz landed a third hit that fractured § 87(2)(b)'s elbow. PO Caballero hit § 87(2)(b) in the right leg with his asp at least once during this altercation. PO Schultz then hit § 87(2)(b) in the left leg with his asp and this caused § 87(2)(b) to fall to the ground on his chest. § 87(2)(b) does not remember if PO Shook hit him or not. § 87(2)(b) believed PO Shook then held him on the ground while handcuffing his arms behind his back. While the officers were lifting § 87(2)(b) off the ground, PO Schultz then used his asp to hit § 87(2)(b) in the stomach near the ribcage. This caused § 87(2)(b) to lose his breath.

There were several people who crowded around while § 87(2)(b) was being arrested and § 87(2)(b) said that he knows some of them personally because he used to live in the neighborhood. Although, he could not provide full names or contact information for them. While the officers were hitting § 87(2)(b) some of the witnesses were crying out for the officers to stop, to which one of the officers said to the crowd, "Shut the fuck up, you want to be next?" § 87(2)(g) first quoted the officers as saying in his telephone statement: "Shut the fuck up, we can take you in, too." PO Schultz was also yelling at the witnesses at the scene, but he could not recall exactly what PO Schultz was saying. § 87(2)(b) was then put in the patrol van and taken to the 73rd Precinct stationhouse.

At the stationhouse, § 87(2)(b) felt his left elbow swelling up and getting painful. He told the officers this and he was taken to § 87(2)(b). There, a doctor determined that § 87(2)(b)'s left elbow was fractured. § 87(2)(b)'s arm was put in a sling and he was prescribed painkillers. § 87(2)(b) was not quoted or specifically noted as making any statements in the medical records.

§ 87(2)(b) returned to the 73rd Precinct stationhouse before appearing at court where he was charged with § 87(2)(a) 160.50. § 87(2)(b) did not have marijuana when the officers arrested him and he alleged that the officers added the marijuana charge to his arrest at the stationhouse. In his phone statement he made it seem as though the officers actually planted a Ziploc bag of marijuana on him. In his CCRB statement, however, he clarified that he never saw the marijuana he was being charged with.

§ 87(2)(g) § 87(2)(a) 160.50. At the time of the interview, § 87(2)(b) was talking to a friend about getting a lawyer for a lawsuit. § 87(2)(b) has admittedly filed a civil suit in the past in a matter unrelated to the NYPD. As of this closing report, however, § 87(2)(b) has not filed a notice of claim (see enclosure 15).

§ 87(2)(b) was shown a photo array following his CCRB interview (see enclosure 6e). The photo array included PO Timothy Schultz and five filler officers. § 87(2)(b) immediately identified PO Schultz without a doubt as the officer that first hit him with the asp and also hit him after he was handcuffed.

Finally, after the interview, pictures were taken of § 87(2)(b)'s elbows (see enclosures 6f-6g). On comparison, § 87(2)(b)'s left elbow has a sharp point that the right elbow does not. § 87(2)(g) § 87(2)(b) claimed this is because of the fracture caused by being hit with an asp.

Results of Investigation

Witness Statements

Civilians not interviewed

§ 87(2)(b) § 87(2)(b) originally called the CCRB to report this incident on September 26, 2006; she alleged that an unidentified male was stopped by five police officers (two Caucasians, two Puerto Ricans and one Black), who then kicked, punched, hit the male with “night sticks” and slammed his face into the ground (see enclosure 4b). § 87(2)(b) was contacted on September 28, 2006, whereupon she gave a phone statement that clarified some details to help identify the then unidentified victim (see enclosure 5a). § 87(2)(b) then stopped responding to the CCRB’s numerous attempts to contact her and thus she was not interviewed. § 87(2)(b) had additionally stated that a relative had videotaped the incident and that her grandmother was also a witness. However, she never identified these two other witnesses and all subsequent attempts to contact these individuals through § 87(2)(b) by phone calls and letters (see enclosures 16 and 17) were unsuccessful.

A separate complaint regarding this incident was filed with IAB by § 87(2)(b) on September 26, 2006 (see enclosures 3a-3c). He alleged that when he told the officers to stop hitting § 87(2)(b) one of them said to him, “Shut the fuck up, nigger.” This complaint was referred to the CCRB where it was received on September 29, 2006, § 87(2)(g) (see enclosures 4a-4b). Five phone calls were made to a number at which an unidentified individual confirmed that § 87(2)(b) could be reached and three letters were sent and never returned to the CCRB. Despite these numerous attempts, the CCRB was not able to establish contact with § 87(2)(b) (see enclosures 16 and 17). § 87(2)(g)

Additionally, § 87(2)(b) said that there was a crowd of people that had witnessed the scene and said that he knew some of them. However, he was not able to provide contact information or full names for any of the individuals. § 87(2)(g)

Officer Statements

Officer identification

PO Timothy Schultz was identified because he was the arresting officer on the BADS arrest report for § 87(2)(b); § 87(2)(b) later confirmed PO Schultz’ identity through a photo array. PO Daniel Shook and PO Justin Caballero were then identified through the roll call and through PO Schultz’ CCRB statement. § 87(2)(b), § 87(2)(g)

While PO Caballero’s NYPD record notes his race as “white,” he is the only officer at the scene that looks “Hispanic” (see enclosure 9c). All officers confirmed their involvement in the incident in their subsequent CCRB interviews. § 87(2)(b), § 87(2)(g)

PO Timothy Schultz

Memo book (see enclosures 7a-7b): 9/26/06: 2000 – one under § 87(2)(b)

PO Timothy Schultz was interviewed at the CCRB on January 16, 2007 (see enclosures 7d-7e). On September 26, 2006, PO Schultz was assigned to a conditions tour in the 73rd Precinct that lasted from 6:00 PM to 2:25 AM the next day. He was partnered with Police Officers Justin Caballero and Daniel Shook. PO Schultz was in full uniform and in a marked van.

On September 26, 2006, at approximately 8:00 PM, PO Schultz was the driver of the marked patrol van to which he, PO Caballero and PO Shook were assigned. They were on a routine patrol when they noticed two men talking on the corner of § 87(2)(b) and § 87(2)(b). He saw the two men “going back and forth” which he assumed to be a possible hand-to-hand drug transaction because the area is a “high drug area.” But, he did not see a money exchange or a drug exchange. PO Schultz stopped the van “20 feet before the corner,” got out and “snuck behind the van” to see what the men were doing. PO Schultz noticed that one of the men (later identified as § 87(2)(b)) had something in his hand. PO Schultz got a little closer, whereupon he saw that § 87(2)(b) was holding “a bunch of glassine envelopes, crack cocaine.” He then approached § 87(2)(b) and said “Police, don’t move.” At which point, § 87(2)(b) backed up about ten feet and then threw the “zips” containing drugs in a sewer on the corner. § 87(2)(b) then ran away and PO Schultz - with PO Shook following 10 to 15 yards behind him - pursued him on foot for several blocks. PO Caballero went back to get the van and then followed the foot-pursuit. PO Schultz did not know what happened to the other individual with whom § 87(2)(b) was speaking with at the beginning of the incident. He could not say if one of his partners stayed with this person or even if this person was arrested the night of this incident.

Near the corner of § 87(2)(b) and § 87(2)(b) PO Caballero stopped the van about 10 yards in front of § 87(2)(b) and exited the van. § 87(2)(b) did not stop running. PO Caballero immediately engaged § 87(2)(b) who tried to punch PO Caballero. PO Caballero then hit § 87(2)(b) once with his asp and § 87(2)(b) fell to the ground. PO Schultz could not recall which hand § 87(2)(b) used to try and punch PO Caballero, nor could he remember where PO Caballero hit § 87(2)(b) with the asp.

PO Schultz was still running behind § 87(2)(b) when § 87(2)(b) engaged PO Caballero. The altercation between PO Caballero and § 87(2)(b) lasted about 10 seconds until PO Schultz was close enough to run up and help PO Caballero handcuff § 87(2)(b) who was still struggling by flailing his arms when he was on the ground.

PO Schultz did not recall if he ever took his own asp out. He did not strike § 87(2)(b) with an asp. PO Shook did not use his asp to strike § 87(2)(b). None of the other officers at the scene punched or kicked § 87(2)(b). After § 87(2)(b) was in handcuffs, he did not struggle with the officers. § 87(2)(b) also did not struggle as he was lifted off of the ground. No officers struck § 87(2)(b) while he was in handcuffs.

As the officers were handcuffing § 87(2)(b) a crowd of 10 to 20 people gathered and they were yelling and screaming. PO Schultz did not know at whom they were screaming because he did not pay attention to them. PO Schultz did not say anything to the crowd of people and did not recall any of the other officers saying “Shut the fuck up!” or “Shut the fuck up, nigger!” The officers then put § 87(2)(b) in the van and drove him to the 73rd Precinct stationhouse.

At the stationhouse, it was realized that § 87(2)(b) had an injury to his elbow. PO Schultz did not know how § 87(2)(b) received this injury. § 87(2)(b) was taken to the hospital in an ambulance. PO Schultz did not say whether there was an attempt after the incident to retrieve the drugs.

During the interview PO Schultz was shown the BADS arrest record that states that § 87(2)(b) was observed with a quantity of marijuana instead of the crack cocaine he had mentioned at the beginning of the interview. PO Schultz stated that he would have to look at the arrest report for the specifics but that he nonetheless saw glassine bags in § 87(2)(b) possession before the incident.

PO Daniel Shook

Memo book (see enclosures 8a-8b): PO Daniel Shook did not make any entries regarding this incident.

PO Shook was interviewed at the CCRB on January 30, 2007 (see enclosures 8d-8e). On September 26, 2006, PO Shook worked a 6:00 PM to 2:00 AM conditions tour with PO Timothy Schultz and PO Justin Caballero. He was in full uniform and assigned to a marked van.

On September 26, 2006, PO Shook and PO Caballero were riding in the marked van that PO Schultz was driving. At approximately 8:00 PM, in the vicinity of § 87(2)(b) and § 87(2)(b) in Brooklyn, PO Schultz stopped the van, “jumped out” and began chasing after someone (later identified as § 87(2)(b)). PO Shook did not know why PO Schultz began chasing after the male. PO Shook then also began running behind PO Schultz while PO Caballero drove the van to follow the pursuit. The chase consisted of going south on § 87(2)(b) from § 87(2)(b) and then going east § 87(2)(b) (see enclosure 8f). As they were running, PO Shook did not see § 87(2)(b) throw anything because he (PO Shook) was too far away. Also, none of the officers said anything to § 87(2)(b) during the chase. At the corner of § 87(2)(b) and § 87(2)(b) PO Shook dropped his radio because he was dodging traffic and he had to go back and get it, at which point he lost sight of PO Schultz and § 87(2)(b). PO Shook then caught up with them at § 87(2)(b) and § 87(2)(b) whereupon § 87(2)(b) had already been handcuffed and was being lifted up off the ground from underneath his arms by PO Schultz and PO Caballero. There was a crowd of about 10 people beginning to form in the area but PO Shook was not paying much attention to them. The crowd might have become a problem if they (the officers) had stayed there any longer. None of the officers said anything to the crowd and, from PO Shook’s recollection, none of the crowd said anything to the officers. After being handcuffed, § 87(2)(b) was not struggling. None of the officers had their asp’s out during the incident as far as PO Shook knew and none of the officers struck § 87(2)(b) as he was being lifted up off of the ground.

§ 87(2)(b) was then put in the van immediately and the officers drove to the 73rd Precinct stationhouse where PO Caballero and PO Shook dropped off PO Schultz and § 87(2)(b) and continued their patrol. PO Shook did not notice any injury to § 87(2)(b) and § 87(2)(b) did not complain of any injuries. PO Shook was not sure if there were narcotics found on § 87(2)(b) that day. Finally, PO Shook had never seen § 87(2)(b) before this incident and PO Shook was never told anything about this incident afterwards from any other officers.

PO Justin Caballero

Memo book (see enclosures 9a-9b): PO Justin Caballero did not make any memo book entries regarding this incident.

PO Caballero was interviewed at the CCRB on February 6, 2007 (see enclosures 9d-9e). On September 26, 2006, PO Caballero was assigned to a conditions tour that went from 6:00 PM to 2:35 AM of the next day. PO Caballero was assigned to a marked van along with PO Daniel Shook and PO Timothy Schultz. PO Caballero was in uniform that day.

On September 26, 2006, at approximately 8:00 PM, PO Caballero and PO Shook were riding in the marked van that PO Schultz was driving. In the vicinity of § 87(2)(b) and § 87(2)(b) in Brooklyn, PO Schultz stopped and exited the van; PO Schultz told PO Caballero sometime later that he witnessed a suspicious transaction. But, there was no further elaboration. PO Caballero then saw PO Schultz running after an individual (later identified as § 87(2)(b)) and PO Shook started running behind PO Schultz. PO Caballero stayed inside the vehicle, got into the driver’s seat and drove east on § 87(2)(b) while PO Schultz and PO Shook were chasing § 87(2)(b) south on § 87(2)(b). PO Caballero then drove south on § 87(2)(b) and saw § 87(2)(b) running towards his van (see enclosure 9f).

PO Caballero exited the van and approached § 87(2)(b) who was running towards him in a “physically threatening and menacing manner.” § 87(2)(b) then came at PO Caballero and attempted to throw a punch at PO Caballero’s face. § 87(2)(b) missed and then pushed PO Caballero back. § 87(2)(b) did not try to run around PO Caballero but looked as if he wanted stay there to have a confrontation or a fight. PO Caballero then took a step back so that he was still in front of § 87(2)(b). § 87(2)(b) took out and extended his asp and struck § 87(2)(b) once in the left arm near the elbow. At this point § 87(2)(b) fell to the ground on his back and PO Caballero dropped his asp and attempted to restrain § 87(2)(b). § 87(2)(b) was still swinging and tensing his arms and kicking his legs while on the ground, but PO Caballero managed to flip him over on his stomach. 30 seconds later, PO Schultz approached and helped PO Caballero handcuff § 87(2)(b). After § 87(2)(b) was handcuffed, he stopped resisting. This is when PO Shook arrived at the scene. PO Caballero then grabbed § 87(2)(b) by the arm, lifted him off of the ground and the officers put him in the van. At this point, there

was a crowd that was “just watching” the incident. PO Caballero did not hear anyone in the crowd say anything. None of the officers at the scene addressed the crowd.

Neither PO Schultz nor PO Shook took out their asps or struck § 87(2)(b) before or after he was handcuffed. The only time § 87(2)(b) was hit was when PO Caballero hit him in the elbow with his asp.

The officers drove § 87(2)(b) to the 73rd Precinct stationhouse and there PO Schultz took the arrest. PO Caballero left soon after arriving at the stationhouse. PO Caballero could not recall what happened to PO Shook after arriving at the stationhouse. But, he was aware that § 87(2)(b) was later taken to the hospital because of the injury to his arm where PO Caballero hit him.

Medical Records

§ 87(2)(b) was admitted to § 87(2)(b) at approximately § 87(2)(b) on § 87(2)(b) in the custody of the NYPD. § 87(2)(b) was there for pain in his left elbow but there was no deformity in the area and no other notable abnormalities in the rest of his body. The medical records states that the mechanism of injury was a fall and then that § 87(2)(b) was hit with a police baton. § 87(2)(b) had x-rays of his left arm taken and the doctors concluded that there was no fracture but rather that there was soft tissue injury and swelling. § 87(2)(b) was given a cold pack for his injury; there were no other listed treatments or medications (see enclosures 10a-10x).

Police Department Documents

There were no records of a Sprint Print-Out, UF-61 or property vouchers for this incident (see enclosure 18).

Command Log

The 73rd Precinct command log notes the arrest of § 87(2)(b) at 8:00 PM. The log also shows that § 87(2)(b) mental and physical conditions were apparently normal and that § 87(2)(b) resisted officers and therefore force was used (see enclosures 12a-12b).

BADS Arrest Record

The arrest record in BADS shows that § 87(2)(b) was charged § 87(2)(a) 160.50 § 87(2)(b). The arresting officer was PO Timothy Schultz (see enclosure 14b).

Arrest Photographs for § 87(2)(b)

In his arrest photographs, § 87(2)(b) appears normal in that there are no apparent injuries to his face (see enclosure 13a).

Status of Arrest

§ 87(2)(a) 160.50
§ 87(2)(b)
§ 87(2)(b)

Complainant’s Criminal Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant's CCRB History

This is the first CCRB complaint for § 87(2)(b) (see enclosure 2b).

Officers' CCRB History

PO Schultz has been with the NYPD for three years and has not been the subject officer of any substantiated CCRB allegations (see enclosure 1a).

PO Caballero has also been with the NYPD for three years and has not been the subject officer of any substantiated CCRB allegations (see enclosure 1b).

Conclusions and Recommendations

Undisputed Facts

Officers Timothy Schultz, Justin Caballero and Daniel Shook were on patrol in a marked NYPD van. In the vicinity of § 87(2)(b) and § 87(2)(b) in Brooklyn, PO Schultz attempted to stop § 87(2)(b). PO Schultz exited the van and approached § 87(2)(b) at which point § 87(2)(b) began to run south on § 87(2)(b) then east on § 87(2)(b). PO Schultz pursued § 87(2)(b) on foot. § 87(2)(b) was eventually stopped by the officers in the vicinity of § 87(2)(b) between § 87(2)(b) and § 87(2)(b). When § 87(2)(b) was stopped, he was hit at least once by PO Caballero with an asp, which caused a soft tissue injury to his left elbow. A crowd of people had gathered at the scene of the incident. The officers handcuffed § 87(2)(b) put him in their van and transported him to the 73rd Precinct stationhouse. He was charged § 87(2)(a) 160.50

Facts in Dispute

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Analysis of Allegations

Allegation A: Abuse of Authority: PO Timothy Schultz stopped § 87(2)(b)

§ 87(2)(b) was walking alone from a friend's house in the vicinity of § 87(2)(b) and § 87(2)(b) in Brooklyn when a marked NYPD van pulled up to him and PO Schultz jumped out and started jogging towards him saying, "Police, don't move." PO Schultz explained that he observed what he felt was a drug transaction between § 87(2)(b) and another individual. He then said he saw that § 87(2)(b) had glassine envelopes of crack cocaine. § 87(2)(b), § 87(2)(g)

Allegation B: Discourtesy: Officers spoke rudely to § 87(2)(b)

Allegation C: Abuse of Authority: Officers threatened § 87(2)(b) with the use of force.

As officers were pursuing § 87(2)(b) they allegedly were saying things to the effect of "Stop, motherfucker" and "When I catch you, I am going to beat the shit out of you." § 87(2)(b), § 87(2)(g)

Allegation D: Force: PO Timothy Schultz struck § 87(2)(b) with an asp.

According to § 87(2)(b) he was first struck by PO Schultz with an asp in his upper left arm after he stopped running. PO Schultz then struck § 87(2)(b) several more times in the arm and legs on the left side of his body. § 87(2)(b) claimed also that PO Schultz struck him once in the stomach with the asp when he was already handcuffed and being lifted up off of the ground. Two witnesses called the CCRB and IAB about this incident with one stating that § 87(2)(b) was hit with a “nightstick” and the other stating the § 87(2)(b) was hit but did not specify with what. However, they would not provide a statement. All of the officers denied that this force occurred. Furthermore the medical records do not indicate that § 87(2)(b) was injured anywhere else on his body other than his elbow; § 87(2)(b), § 87(2)(g)

Allegation E: Force: PO Justin Caballero struck § 87(2)(b) with an asp.

§ 87(2)(b) claimed that one other officer struck him with an asp; this officer was described as Hispanic. There was only one officer that appeared to be Hispanic at the scene, PO Justin Caballero. PO Caballero admitted to striking § 87(2)(b) with an asp in the left arm, although § 87(2)(b) claimed the Hispanic officer struck him at least once in the right leg. § 87(2)(b), § 87(2)(g)

PO Schultz also noted that force was used to “overcome assault” in the BADS arrest report. § 87(2)(b), § 87(2)(g)

According to the Police Student’s Guide regarding the use of force, officers are trained to react to a physical assault that is likely to cause physical injury with the use of impact techniques such as batons, fists or feet. Furthermore, officers do not have to use a proportionate amount of force to overcome an assault.

§ 87(2)(g)

Allegation F: Discourtesy: Officers spoke rudely to individuals.

§ 87(2)(b) claimed that the people in the crowd watching his arrest were telling the officers to stop and the officers responded by saying “Shut the fuck up, do you want to be next?” However, in § 87(2)(b) initial phone statement, the officers are quoted as having said, “Shut the fuck up, we can take you in, too.”

§ 87(2)(b), § 87(2)(g)

Allegation G: Offensive Language: An officer made remarks towards § 87(2)(b) based upon race.

§ 87(2)(b) also filed a complaint about this incident stating that he saw the arrest and when he told the officers to stop hitting § 87(2)(b) because he was already in handcuffs, one of the officers told him, “Shut the fuck up, nigger.” Numerous attempts have been made to contact § 87(2)(b) by phone and by mail. His number was confirmed when called and an unidentified individual stated that he did live at the number but was not at home at the moment. Also, none of the letters sent to his address have been returned to the CCRB. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: